United Nations CCPR/C/NER/Q/2

International Covenant on Civil and Political Rights

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Human Rights Committee

List of issues in relation to the second periodic report of the Niger*

Constitutional and legal framework within which the Covenant is implemented (art. 2)

1. In the light of article 171 of the Constitution, which establishes that international treaties take precedence over the State party's laws, please provide information on the practical measures taken to ensure that the Covenant prevails over domestic law. Please provide examples of any cases in which the courts have directly applied the provisions of the Covenant. In view of the system of legal dualism in the State party, please specify what measures have been adopted to identify incompatibilities between customary norms and Covenant provisions and to ensure that the latter take precedence over customary law. Please provide further information on the availability of effective remedies for individuals claiming a violation of the rights protected by the Covenant. Please provide information on measures to raise awareness of the Covenant, including the individual communications procedure under the Optional Protocol thereto, among the general public, in particular judges, prosecutors, lawyers and members of the defence and security forces.

2. With regard to the National Human Rights Commission, please specify the measures taken to: (a) ensure the transparent selection of members and a membership that guarantees the independence of the institution; (b) ensure the equal representation of women on the Commission and among its staff; and (c) provide the Commission with sufficient resources to implement its mandate in full. Please also specify its powers, especially in terms of investigating cases of violations of human rights and fundamental freedoms, staffing levels, the number of regional and local offices, actions already undertaken and reports already produced, and measures to raise awareness of the institution among the general public.

Anti-corruption measures and natural resource management (arts. 1, 2 and 25)

3. Please indicate all measures taken to combat corruption, which undermines the rule of law and leads to violations of the Covenant. In the light of paragraph 23 of the second periodic report submitted by the Niger (CCPR/C/NER/2) and the provisions under Title VII of the Constitution, please specify all measures taken to ensure the transparent management of natural resources in accordance with article 1 (2) of the Covenant. In particular, please respond to allegations that natural resource and subsoil exploration and production contracts concluded with foreign companies: (a) are or have been negotiated and executed without transparency; and (b) award the companies financial conditions and tax advantages that prevent the population of the State party from reasonably enjoying the benefits of its national resources.

* Adopted by the Committee at its 123rd session (2–27 July 2018).

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The fight against impunity and past human rights violations (arts. 2, 6, 7 and 14)

4. In view of paragraphs 11 to 14 of the common core document (HRI/CORE/NER/2017), and of the previous observations (see CCPR/C/79/Add.17, paras. 5 and 7), please provide further information on the steps taken to shed light on past human rights violations and to ensure the establishment of the truth and the right to compensation for victims and their families, in particular regarding: (a) the events at Tchintabaraden in 1990 in which Tuareg movements clashed with law enforcement officers; and (b) the many allegations of violations committed between 1996 and 1999, including in relation to the discovery of the mass grave at Boultoungoure in 1999. Please indicate all measures taken to combat impunity and explain how Act No. 2000-01 of 24 January 2000 granting amnesty in relation to the coups d'état of 27 January 1996 and 9 April 1999 and Ordinance No. 2009-19 of 23 October 2009 granting amnesty in relation to events occurring between 2005 and 2009 are compatible with the provisions of the Covenant.

States of emergency and counter-terrorism measures (arts. 2, 4, 6, 7, 9, 12 and 19)

5. With reference to paragraphs 57 ff. of the State party's report, please provide further information on the conformity of the existing regulations governing states of emergency with article 4 of the Covenant, clarifying in particular whether derogations from non-derogable provisions of the Covenant during states of emergency are explicitly prohibited. Please indicate the number of states of emergency that were called during the reporting period, the regions where they were implemented and their duration. Please respond to allegations that: (a) the written text of the orders and circulars implementing the state of emergency in the Diffa region are not publicly accessible; (b) measures taken under the state of emergency in the Diffa region disproportionately impinge on the freedom of movement; and (c) the defence and security forces have abused their authority by engaging in humiliating acts and in carrying out group arrests. Please describe the steps taken to investigate these allegations. .

6. Please indicate the measures taken to amend the rather broad definition of terrorism in the Criminal Code and to bring it into conformity with the Covenant. Please also indicate the number of investigations, prosecutions, acquittals and convictions in the last five years on the basis of this definition, and the reasons invoked in each case. Please respond to allegations that some arrests and detentions on charges of terrorism and vindication of terrorism — including those of civil society actors — are in fact carried out for other reasons, including political reasons. Please respond to allegations that persons suspected or accused of terrorist activities are subjected to ill-treatment and torture, including for the purpose of extracting confessions.

Non-discrimination (arts. 2, 7, 24, 25 and 26)

7. Please provide information on steps taken to adopt comprehensive legislation that: (a) clearly defines and criminalizes direct and indirect discrimination; (b) gives a comprehensive list of prohibited grounds of discrimination, including sexual orientation, gender identity and disability; and (c) provides effective remedies for victims. Please state the number of complaints of discrimination recorded and of prosecutions brought in the State party. Please describe the measures taken to combat and prevent acts of discrimination, stigmatization and violence against: (a) persons with albinism; (b) persons living with HIV/AIDS, especially women; (c) children born out of wedlock; (d) persons belonging to ethnic minorities; and (e) persons belonging to sexual or gender minorities. In this regard, please indicate whether the State party intends to review the terminology used in article 282 of the Criminal Code, which describes sexual activity between persons of the same sex as an "unnatural" act. Please also describe all measures taken to implement the recommendations of the Special Rapporteur on contemporary forms of slavery, including its causes and consequences (see A/HRC/30/35/Add.1) to put an end to discrimination against former slaves and their descendants. Please also describe measures designed to ensure in practice non-discrimination against persons with disabilities in all areas, including education, employment and participation in public affairs.

Gender equality and discrimination against women (arts. 2, 3, 23, 25 and 26)

8. In the light of paragraphs 41 ff. of the report, please provide further information on: (a) the application in practice of the quota system for women in elected office (15 per cent) and in the State administration and Government (35 per cent); and (b) any additional measures designed to increase women's representation in public life, especially in decision-making positions. Please also provide further information on steps envisaged to adopt a family code in accordance with the provisions of the Covenant and on measures designed to overcome resistance to such a text, especially among traditional and religious leaders. With regard to Act No. 62-11 of 16 March 1962 and the law which replaced it, Act No. 2004-50 of 22 July 2004, please describe all measures taken to ensure that women are not subjected to discriminatory practices because of the customary provisions on matters relating to personal status, especially marriage, polygamy and repudiation; divorce; inheritance; donations and wills; and landownership. Please clarify whether the State party has undertaken to remove the discriminatory provisions in the Civil Code, particularly in the area of family law with regard to: (a) the choice of residence and custody of children; (b) the status of head of household; (c) the legal capacity of married women; and (d) the division of matrimonial property.

Violence against women, harmful practices and *wahaya* (arts. 2, 3, 6, 7, 8 and 26)

9. In view of the prevalence of violence against women, please indicate whether the State party intends to adopt a law and a comprehensive strategy to combat violence against women. Please specify the measures taken to eradicate the relative impunity enjoyed by perpetrators of sexual violence, in particular measures designed to: (a) explicitly define and criminalize sexual violence and marital rape; (b) do away with taboos and fear of being stigmatized and encourage victims to file complaints; and (c) provide the police, hospital staff and legal professionals with training on issues related to sexual violence.

10. Given the extremely high rate of early marriage, please indicate any steps taken towards the adoption of a law and a comprehensive strategy to address the problem and provide further information on all measures taken to overcome resistance to such a bill, including among traditional and religious leaders. Please provide updated information on the practice of female genital mutilation in the State party's territory, the measures taken to combat it and the results of such measures, and indicate the number of complaints recorded, prosecutions brought and sentences handed down on the basis of article 232 (1), (2) and (3) of the Criminal Code. In the light of paragraphs 92 and 93 of the State party's report, please provide further information on the practice of *wahaya* in the State party's territory and, in particular: (a) an updated estimate of the number of *wahayu*; (b) all measures designed to put an end to the practice of taking a *wahaya*; (c) the steps envisaged to criminalize specifically this practice; (d) the number of complaints, prosecutions and convictions relating to the practice; and (e) efforts undertaken to provide measures of rehabilitation and redress for *wahayu*.

Maternal mortality and voluntary termination of pregnancy (arts. 3, 6 and 7)

11. In view of the very high rates of maternal mortality and early pregnancy, please provide updated statistical data on maternal and infant mortality. Please describe the efforts made to ensure access to safe contraceptive methods and to education and information on contraception and sexual and reproductive health throughout the country, and to prevent early pregnancies. Please provide information on the measures taken to improve pregnant women's access to health services. Please indicate the estimated number of clandestine abortions per year and clarify whether the State party intends to amend its legislation, in accordance with the Covenant, to ensure access to safe, legal abortion when carrying a pregnancy to term would cause the woman substantial suffering, particularly if the pregnancy is the result of rape or incest or if it is not viable. Please also indicate the number of women convicted of intentionally terminating their pregnancies and the penalties imposed, and the number of persons convicted of performing an abortion.

Death penalty (art. 6)

12. With regard to paragraph 69 of the State party's report, please indicate whether an official moratorium on the death penalty is in effect and describe the measures taken towards abolishing the death penalty and the current obstacles to such an abolition. Please also indicate whether the State party is considering ratifying the Second Optional Protocol to the International Covenant on Civil and Political Rights, aiming at the abolition of the death penalty.

Protection of civilians in the context of the conflict with Boko Haram (arts. 2, 3, 6, 7, 9 and 24)

13. In the light of the attacks carried out since February 2015 at several locations, including Bosso, Diffa and the island of Karamga, please specify all measures taken to strengthen the protection of the civilian population, including against: (a) killings and abductions; (b) the targeting of protected civilian objects; (c) the use of children in hostilities; (d) rape and other forms of sexual violence; and (e) torture or ill-treatment, committed by Boko Haram. In particular, please provide further information on measures designed to support the surviving victims of sexual violence perpetrated by terrorist groups and to ensure that they are not stigmatized. Please describe all measures taken to: (a) ensure that all perpetrators of violations of human rights and international humanitarian law are held accountable for their actions; and (b) provide victims with appropriate and effective remedies. Please also describe all measures taken to ensure that the security forces do not commit human rights violations; and respond to allegations of group and mass arrests of persons merely suspected of belonging to Boko Haram. Please provide information on the estimated number of people displaced by the conflict and describe any measures designed to ensure their protection, especially that of women and children, who are more vulnerable to violence.

Prohibition of torture and cruel, inhuman or degrading treatment, conduct of the security forces and treatment of persons deprived of their liberty (arts. 6, 7 and 10)

14. In the light of paragraph 79 of the report, please describe the measures envisaged: (a) to introduce into the Criminal Code a definition of torture in conformity with the Covenant; and (b) to develop a national action plan against torture. Please indicate: (a) all measures taken to prevent and combat torture; (b) complaint mechanisms and remedies available to persons who claim to have been subjected to torture or ill-treatment by State officials; and (c) the exact number of complaints recorded, investigations and prosecutions undertaken, convictions handed down and compensation payments awarded for acts of torture during the reporting period. Please respond to allegations that the defence and security forces practice torture and ill-treatment, including to extract confessions or information. In this regard, please indicate whether there are legal provisions establishing that statements or confessions obtained under torture are inadmissible.

15. Please respond to allegations that violence has been used against protesters, including in Niamey in January 2015. In this regard, please provide information on training and oversight and accountability mechanisms to ensure that police forces comply with the provisions of the Covenant, including in addressing mob violence.

16. Please respond to allegations that officers of the defence and security forces subject migrants travelling through the Niger to inhuman and degrading treatment, for example robbing them or requiring them to pay bribes, particularly on the Agadez-Arlit-Assamakka and Agadez-Dirkou-Madama routes. Please also respond to allegations that the principle of non-refoulement is not always applied and that refugees, particularly Nigerians and Sudanese, are returned by the army and the police of the Niger without any form of judicial process. Please indicate whether there are legal provisions guaranteeing the non-refoulement of asylum seekers, particularly when they are at risk of being subjected to treatment contrary to article 7 of the Covenant.

17. Please provide updated information, disaggregated by place of detention, on the official capacity of places of detention and the actual number of detainees. Please indicate the budget allocated to prison administration in the past five years. Please respond to

allegations of, inter alia, overcrowding, lack of segregation between remand and convicted prisoners, lack of access to medical care and good nutrition, and violence perpetrated against prisoners, in particular at the Koutoukalé high-security prison, which reportedly resulted in the death of a detainee. Please specify what measures have been taken to remedy these issues and whether the State party plans to establish a national independent mechanism tasked with visiting all places of detention.

Slavery, forced labour and trafficking in persons (arts. 6, 7, 8 and 24)

18. In the light of paragraphs 86 ff. of the report, please provide further information on measures designed to enforce the legislative framework prohibiting slavery, which continues to exist, particularly among some ethnic groups. Please describe all measures to implement the recommendations of the Special Rapporteur on contemporary forms of slavery, including its causes and consequences (see A/HRC/30/35/Add.1). In particular, please provide information on: (a) all measures to establish the number of people forced into slavery in the territory of the State party; (b) the number of prosecutions brought and convictions and sentences handed down on the basis of articles 270 ff. of the Criminal Code; (c) the compensation received by victims and rehabilitation measures envisaged; (d) measures to raise awareness of legislation on the prohibition of slavery, particularly among the judicial and security authorities; and (e) all measures designed to encourage victims who fear reprisals to file complaints.

19. Please describe all measures designed to end the subjection of children to the worst forms of child labour, particularly forced domestic labour, agricultural and domestic work, and work in artisanal gold mines, quarries and salt and gypsum mines. In particular, please indicate the number of prosecutions brought and convictions and sentences handed down in relation to the worst forms of child labour, and the rehabilitation measures provided to victims. In the light of Ordinance No. 2010-86 of 16 December 2010 on combating trafficking in persons: please provide information on: (a) the mandate and budget of the National Commission to Coordinate the Fight against Trafficking in Persons and the National Agency to Combat Trafficking in Persons, and the activities that they carry out; (b) the number of complaints recorded, investigations undertaken and the outcomes of such investigations, since the entry into force of the Ordinance; (c) the number of victims identified since the entry into force of the Ordinance; and (d) the measures taken to raise awareness of the Ordinance. Please specify the measures taken to provide care, compensation and rehabilitation for victims.

Liberty and security of person and administration of justice (arts. 9 and 14)

20. With regard to paragraphs 102 ff. of the report, please describe the measures taken to ensure that the fundamental legal safeguards of persons in detention are respected. In particular, please respond to allegations that persons are arrested without a warrant, held in custody beyond the time limits prescribed by law and denied their right to see a doctor. Please provide information on the average duration of pretrial detention, the number of persons held in pretrial detention, and the proportion of the total prison population being held in such detention. Please respond to allegations that the provisions on pretrial detention are not applied in practice. Please indicate the measures taken to ensure that all defendants have access to legal assistance and describe the practical effectiveness of such measures.

21. In the light of the national consultations on the justice system held in November 2012, please describe the measures taken to strengthen the capacity and independence of the judiciary, especially in order to: (a) combat political influence and corruption; and (b) reduce delays in the administration of justice and ensure access to justice for all, particularly outside the capital. Please provide information on: (a) the budget allocated to the justice sector for the past five years and the staffing of the judiciary by region; (b) the procedures for appointing judges and prosecutors and the authorities who have powers of appointment; and (c) the functioning of the Supreme Council of Justice and the safeguards aimed at ensuring its freedom from any pressure or interference.

Freedoms of expression and association, right of peaceful assembly and protection of journalists and human rights defenders (arts. 6, 7, 9, 19 and 21)

22. With reference to paragraphs 218 ff. of the report, please provide further information on measures designed to ensure the freedom of the press and respond to allegations that several journalists have been arrested and held in custody after making comments in debates or publishing articles. Please also respond to allegations of: (a) aggression against journalists, the closure of media outlets and the storming of pro-opposition media offices in January 2015; (b) excessive fines imposed on journalists, self-censorship practised by journalists, censorship and the blocking of access to social media in January 2015; and (c) threats made, including by the Minister of the Interior, against private media. Please provide information on the legal framework governing freedom of expression in cyberspace. Please describe the measures taken to ensure the protection of human rights defenders and journalists and respond to allegations that they have been subjected to threats, detention, physical abuse and judicial harassment. In this regard, please provide information on the fate of the 26 activists, including Mr. Ali Idrissa, arrested following peaceful demonstrations against the 2018 Finance Act in Niamey.

23. In the light of paragraph 238 of the report, please provide further information on the system for authorizing peaceful assemblies and respond to allegations that: (a) some demonstrations, including opposition and civil society demonstrations, have been banned; (b) municipal authorities regularly refuse to authorize demonstrations; and (c) security forces sometimes use force to disperse demonstrations and conduct mass arrests, as at a student demonstration in Niamey in October 2015. Please respond to allegations that the Association de défense des droits consommateurs des technologies de l'information, de la communication et de l'énergie (Association for the Defence of the Rights of Consumers of Information Technology, Communication and Energy) (ACTICE) was broken up after a demonstration held in October 2017.

Protection of children (art. 24)

24. Please indicate whether the State party intends to prohibit the corporal punishment of children in all settings. In this regard, please specify the measures taken to ensure that there is no violence against children in Qur'anic schools. Please describe all measures taken to further birth registration efforts, particularly among the poorest rural populations and minorities, especially Mahamids.

Participation in public affairs (arts. 19 and 25)

25. In the light of the 2016 presidential and legislative elections, please describe all measures for the continuation of efforts to ensure the holding of free, reliable and transparent elections. Please provide information on measures to guarantee the independence of the Independent National Electoral Commission, and in particular on: (a) its budget and staffing; and (b) the process of appointing its members. Please respond to allegations that mayors can be removed from office by the executive, indicating the number of mayors dismissed in this way during the last five years, their political affiliations and the reasons for this practice. Please provide further information on the reasons for the imprisonment in 2016 of 13 members of the opposition party Mouvement démocratique nigérien pour une fédération africaine (Democratic Movement of the Niger for an African Federation), and say what has become of them. Please provide further information on the practical implementation of article 20 of the Criminal Code and indicate: (a) the categories of convicted persons who are deprived of the exercise of their civil rights; and (b) whether there are other categories of persons who are subject to restrictions in the exercise of their civil rights, in particular the right to vote.

26. Please provide further information on the legal provisions guaranteeing the right of citizens to information and state whether the State party intends to adopt a comprehensive law on access to information. Please describe measures designed to guarantee the right of communities to participate in the management of natural resources and in decision-making processes relating to investment projects with social and environmental impacts, especially in terms of pollution.

Rights of ethnic minorities (arts. 2, 6, 25 and 27)

27. Please indicate whether the State party intends to adopt a policy and a comprehensive strategy to protect all rights of ethnic minorities. Please provide further information on the issue of recognizing the land rights — while respecting the lifestyles — of pastoralist and nomadic populations, especially the Peulh, and comment on reports that more settled populations take over their lands. Please describe the measures envisaged to resolve this issue, which is a source of conflict that leads to loss of life. Please also comment on reports that pastoral lands in the public domain of the State have in numerous instances been awarded as concessions for the implementation of extractive industry projects, in many cases without prior consultation or adequate compensation, with repercussions for the livelihoods and the way of life of pastoralist communities. Please describe the measures taken to respond to the increasingly frequent exposure of nomadic communities to radioactivity caused by extractive industries.

Dissemination of information relating to the Covenant (art. 2)

28. Please describe steps taken to disseminate information on the Covenant, the second periodic report of the State party and its forthcoming examination by the Committee. Please provide detailed information on the involvement of representatives of civil society and non-governmental organizations in the preparation of the State party's report.